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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,781	04/20/2007	Heino Hamelers	P17248-US1	6589
27045	7590	03/12/2010	EXAMINER	
ERICSSON INC. 6300 LEGACY DRIVE M/S EVR 1-C-11 PLANO, TX 75024			BEHARRY, NOEL R	
			ART UNIT	PAPER NUMBER
			2446	
			MAIL DATE	DELIVERY MODE
			03/12/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/595,781

Applicant(s)

HAMELEERS ET AL.

Examiner

NOEL BEHARRY

Art Unit

2446

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 February 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: NONE.
Claim(s) objected to: NONE.
Claim(s) rejected: 19,21-23 and 25-28.
Claim(s) withdrawn from consideration: NONE.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Jeffrey Pwu/
Supervisory Patent Examiner, Art Unit 2446

/N. B./
Examiner, Art Unit 2446

Continuation of 11. does NOT place the application in condition for allowance because: It should be noted that applicant has erroneously indicated this response as after a Non-Final Action to April, 21st, 2009 on the cover sheet, however, this response is being treated as an After - Final reply in response to a Final Rejection issued on December 7th, 2009.

Applicant argues in substance that "the applicant's specification states, "In the embodiment of Figure 2 the calling party's terminal can be a terminal that is not able to send multimedia information itself. In that embodiment a service network SN2 is used to send the multimedia information..." (Page 12, Lines 13-17). In other words, if the calling party terminal can't send multimedia data, the network, triggered by a demand, or trigger, in the calling party's profile, sends multimedia data to the called party in place of the calling party terminal." It should be first noted that the applicant claims are all directed to providing multimedia information association with a "called party" terminal to a "calling party" terminal and not the reverse. Therefore, arguing that, if the calling party terminal can't send multimedia data, the network, triggered by a demand, or trigger, in the calling party's profile sends multimedia data to the called party in place of the calling party terminal is irrelevant. The focus at hand are independent claims 19, 23, 27, and 28 in which all claims are providing a "calling party" with a "called party's" multimedia information of which the Choe reference teaches. The argument that the problem addressed by claim 19 of the present invention is how to initiate the provision of multimedia information that is related to a terminal unable to generate the multimedia information is also irrelevant. This is because "it is the claims that define the claimed invention, and it is claims, not specifications that are anticipated or unpatentable. *Constant v. Advanced Micro-Devices/nc.*, 7 USPQ2d 1064." The prior art reads on the limitations of the independent claims as recited in its current state. This is because if the applicant argument & claims are directed to "how to generate multimedia information related to a terminal unable to generate multimedia information," the claims do not recite anything that even indicate the possibility of the terminal themselves sending the multimedia information and upon determination that the terminal cannot generate or send multimedia information will it then turn to the core network node. The claims merely state, retrieving subscriber data and sending the multimedia information to the caller based on the subscriber data. Merely stating "the demand for providing the multimedia information" in the claims is too broad. In the Choe reference, by the called party having a subscription, that is the demand to send personalized multimedia information to the calling party and by the called party not being subscribed, that's the demand to send the conventional multimedia information to the calling party (Par. 0029). So, as can be seen, this limitation is too broad. For example, Applicant states, "called party subscriber data is retrieved by the network node and in the situation that the called party is unable to provide the data, the called party data/profile includes a demand..." but the examiner submits that this is not portrayed in the claim language and its s the claims that are anticipated or unpatentable not the specification. Moreover, there is no indication in the claims that the determination as to whether the called party can or cannot send the multimedia information is determine from the subscriber data.

Regarding applicant's argument that "the access to the IDC is based on the account information, in which there is no indication in Choe that a demand or trigger is included that causes the multimedia information, the examiner submits that the exact words "demand" or "trigger" does not have to be present in the prior art for it to teach. As mentioned above, in Choe, by the called party having a subscription, that is the demand to send personalized multimedia information to the calling party and by the called party not being subscribed, that's the demand to send the conventional multimedia information to the calling party (Par. 0029).

Regarding applicant's argument that "Heinonen (column 4, lines 8-18) begins with "[I]n sending ringing information to a recipient handset the calling handset utilizes..." (Line 8-9). The recipient handset is a called handset, with the calling handset doing the sending. This is the opposite of the rejected limitation in claim 19, which reads "sending a network address or Universal Resource Locator (URL) address to the calling party..." Therefore, Heinonen does not disclose "sending...to the calling party terminal..." Heinonen discloses sending to the recipient (called) terminal," the examiner respectfully disagrees. The test for obviousness is not whether the feature of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F. 2d 413, 208 USPQ 871 (CCPA 1981). Therefore the combined Choe and Heinonen reference would have suggested to one or ordinary skilled in the art that a search path to a data file can be transmitted in a setup message and the handset can use for example WAP, to retrieve the data file from the network server using the search path or URL (Col 4, Lines 14-18).

Further, with this amendment, the objections to claims 19 and 23 are hereby withdrawn.